

§ 32C-1-116. Judicial relief.

(a) The clerks of superior court of this State shall have original jurisdiction of proceedings under this Chapter. Except as provided in subdivision (4) of this subsection, the clerk of superior court's jurisdiction is exclusive. The following proceedings are included:

- (1) To compel an accounting by the agent, including the power to compel the production of evidence substantiating any expenditure made by the agent from the principal's assets.
- (2) To terminate a power of attorney or to limit, suspend, or terminate the authority of an agent where a guardian of the estate or a general guardian has been appointed.
- (3) To determine compensation for an agent under G.S. 32C-1-112(b).
- (4) To determine an agent's authority and powers, to construe the terms of a power of attorney created or governed by this Chapter, and to determine any question arising in the performance by an agent of the agent's powers and authority under a power of attorney governed by this Chapter, including, but not limited to, the following proceedings:
 - a. To determine whether and to what extent an agent holds a specific grant of authority under G.S. 32C-2-201.
 - b. To approve an agent's ability to make a gift on behalf of the principal where the gift is governed by G.S. 32C-2-217 because the power of attorney grants the agent only general authority with respect to gifts.
 - c. To authorize the agent to make a gift of the principal's property under G.S. 32C-2-218.
 - d. To authorize the agent to do an act described in G.S. 32C-2-201(a), other than the act to make a gift, under G.S. 32C-2-219.
 - e. To determine whether and to what extent acceptance of a power of attorney shall be mandated under G.S. 32C-1-120(f).

Any party may file a notice of transfer of a proceeding pursuant to this subdivision to the superior court division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to a proceeding commenced under this Chapter to the extent consistent with this subsection.

(b) Without otherwise limiting the jurisdiction of the superior court division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under this subsection over the following actions:

- (1) To modify or amend a power of attorney instrument.
- (2) By or against creditors or debtors of an agent or principal.
- (3) Involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (4) To set aside a power of attorney based on undue influence or lack of capacity.
- (5) For the recovery of property transferred or conveyed by an agent on behalf of a principal with intent to hinder, delay, or defraud the principal's creditors.

(c) Proceedings brought under the provisions of subsection (a) of this section shall be commenced as prescribed for in estate proceedings under G.S. 28A-2-6 and may be brought by the following persons:

- (1) The principal or the agent.
- (2) A general guardian, guardian of the principal's estate, or guardian of the principal's person.
- (3) The personal representative of the estate of a deceased principal.

- (4) A person authorized to make health care decisions for the principal.
 - (5) Any other interested person, including a person asked to accept a power of attorney.
- (d) Venue of any proceeding brought under subsection (a) of this section, is proper in any of the following:
 - (1) The county in which the principal resides or domiciled.
 - (2) Any county in which an agent resides.
 - (3) Any county in which property of the principal is located.
- (e) Nothing in this section shall affect the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes.
- (f) Upon motion by the principal, the clerk of superior court shall dismiss a petition filed under subsection (a) of this section, unless the clerk of superior court determines the principal is incapacitated within the meaning of G.S. 32C-1-102(5).
- (g) Any party adversely affected by an order of the clerk of superior court in a proceeding commenced under subsection (a) of this section may appeal the clerk's order as provided in G.S. 1-301.3. (2017-153, s. 1.)